

In the United States Court of Federal Claims

No. 03-2264C

Filed: May 11, 2010

TO BE PUBLISHED

A.F.T.E.R., INC., *et al.*,

Plaintiffs,

v.

THE UNITED STATES,

Defendant.

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RCFC 41(a)(1),

Voluntary Dismissal;

RCFC 59,

Reconsideration, Altering Or Amending

A Judgment;

RCFC 60,

Relief From A Judgment Or Order.

ORDER DENYING MOTION TO VACATE AND FOR RECONSIDERATION

On April 5, 2010, the parties filed a Joint Stipulation Regarding Voluntary Dismissal, pursuant to RCFC 41(a)(1). On the same date, the Clerk's Office for the United States Court of Federal Claims dismissed the Complaint in this matter.

On May 3, 2010, however, counsel for Curtis Hogenson, Diane Larson, Eileen M. Berger, and Shirley J. Arvidson (collectively, the "Hogenson R&R Investors"), former partners of Plaintiff R&R Investors, filed a Motion To Vacate And For Reconsideration, pursuant to RCFC 59, 60. Therein, the court was requested to vacate the April 5, 2010 Stipulation of Dismissal and reconsider the October 5, 2007 and March 22, 2010 Motions To Substitute Counsel.¹ These motions are the result of a dispute among former and current partners of Plaintiff R&R Investors regarding entitlement to settlement proceeds in this matter. Since the R&R Investors partnership was formed under Minnesota law and all former and current members are Minnesota residents, resolution of the competing claims is controlled by Minnesota law. As such, the court delayed ruling on the October 5, 2007 Motion To Substitute Counsel until an interpleader action in Minnesota state court was adjudicated concerning the respective rights of former and current partners. On September 29, 2009, the Minnesota Court of Appeals issued an Opinion, *Faegre & Benson, LLP v. R&R Investors*, 772 N.W.2d 846, 852-56 (Minn. App. 2009), *review denied*, (Dec. 23, 2009), affirming the trial court's determination that the current partners of R&R Investors are entitled to the proceeds from the settlement of this lawsuit.

¹ Jeff Eckland, the attorney of record in this matter, represents Paul Stangis, the current owner and managing partner of Plaintiff R&R Investors.

For these reasons, the May 3, 2010 Motion to Vacate And For Reconsideration is moot since this case was dismissed on April 5, 2010 and the court deems the May 3, 2010 Motion To Vacate And For Reconsideration without merit.

IT IS SO ORDERED.

s/ Susan G. Braden
SUSAN G. BRADEN
Judge